

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2335**

BY DELEGATES FLEISCHAUER, PYLES, CAPUTO AND

LONGSTRETH

[ Introduced January 11, 2019; Referred  
to the Committee on Industry and Labor then the  
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §5-11C-1, §5-11C-2, §5-11C-3 and §5-11C-4, all relating to creating the  
 3 Family Protection Act; making it illegal to discriminate against an individual regarding his  
 4 or her family responsibilities; defining terms; and setting forth remedies and enforcement  
 5 powers.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 11C. FAMILY PROTECTION ACT.**

**§5-11C-1. Short title.**

1 This article may be cited as the Family Protection Act.

**§5-11C-2. Nondiscrimination with regard to family responsibilities.**

1 It is an unlawful employment practice for a covered entity to:

2 (1) Fail or refuse to hire, discharge or otherwise discriminate against any individual with  
 3 respect to compensation, terms, conditions or privileges of employment because of that  
 4 individual's family responsibilities;

5 (2) Segregate or classify an employee or an applicant for employment in any way which  
 6 would deprive or tend to deprive that individual of employment opportunities or otherwise  
 7 adversely affect the individual's status as an employee because of the individual's family  
 8 responsibilities; or

9 (3) Request or require information from an employee or applicant for employment relating  
 10 to the individual's child-bearing age or plans, pregnancy, function of the individual's reproductive  
 11 system or the individual's familial responsibilities.

**§5-11C-3. Remedies and enforcement.**

1 (a) The powers, procedures and remedies provided in §5-11-1 et seq. of this code to the  
 2 commission or any person, alleging a violation of the West Virginia Human Rights Act are the  
 3 powers, procedures and remedies this article provides to the commission, or any person,  
 4 respectively, alleging an unlawful employment practice in violation of this article against an

5 employee or job applicant.

6 (b) No person may discriminate against any individual because that individual has  
7 opposed any act or practice made unlawful by this article or because the individual made a  
8 charge, testified, assisted, or participated in any manner in an investigation, proceeding, or  
9 hearing under this article. The remedies and procedures otherwise provided for under this section  
10 are available to aggrieved individuals with respect to violations of this subsection.

**§5-11C-4. Definitions.**

1 As used in this article:

2 “Commission” means the West Virginia Human Rights Commission;

3 “Covered entity” has the meaning given the word employer in §5-11-3 of this code;

4 “Family responsibilities” means the state of, or the potential to be, caring for a child, parent,  
5 spouse, domestic partner or any other individual related by blood or affinity to the employee whose  
6 close association with the employee is the equivalent of a family relationship; and

7 “Person” has the meaning given the word in §5-11-3 of this code.

NOTE: The purpose of this bill is to create the Family Protection Act. The bill makes it illegal to discriminate against an individual regarding his or her family responsibilities. The bill defines terms. The bill sets forth remedies and enforcement powers.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.